

REMARKS

The subject claims are directed to the embodiment of the invention as shown in Figure 14 of the drawings. As seen therein, a support member 100 is provided which can be formed at low cost from a planar flexible material such as a paper laminate or plastic. The support member includes a curved slot enabling the support member to be hung from the ear of the user. The support member has no electronic parts. All the electronics for the headset are contained in a transceiver 500 which is connected to the support member via a clip 1300.

In the Office Action, claim 1 was rejected as being obvious based on the patent to Braund (6,373,942) in view of Moore (4,901,355). The patent to Braund relates to a headset formed from a plurality of flexible layers sandwiched together about the headset electronics. The flexible layers include a slot for attaching the headset to the ear. While the Braund device is relatively lightweight, it still requires relatively complex manufacturing steps to place the electronics, including a circuit board and receiver transducer between the laminated layers. In contrast, in Applicants' design, the support member exists in its most basic form and the electronics are fabricated separately resulting in an extremely simple and low cost device.

The Moore patent relates to a method of supporting headphone speakers from a pair of glasses or other clothing item such as a hat or a headband. As shown in Moore's Figure 2, the means for connecting the speakers to the earpiece of the glasses can be a spring clip 42. It is the Examiner's position that it would have been obvious to one skilled in the art to locate the speaker 28 of Braund outside of his support, near the ear, and clipped to the support member as taught by Moore for the purpose of providing the user with the ability to hear surrounding sounds thus enhancing the safety of the user. Applicants respectfully traverse this rejection.

In making an obviousness rejection, the Examiner must show some motivation to modify the references in the suggested manner. There is no such motivation here. Braun teaches a composite device which is intended to worn by the user and integrally carry the headset electronics. Moore merely teaches a clip for hanging a speaker transducer from an item of clothing. In order to reach Applicants' claimed device, one skilled in the art would have to rip all the electronics out of the Braun device leaving only the multilayer support member. Then, the electronics would have to be hung from the Braun support member via the clip 42. This modification would not be made for a number of reasons. First, removing the electronics from Braun and attempting to attach them to the support member via a clip would result in the

headphone no longer being aligned with the ear of the user since there is no obvious place the clip could be attached to Braun's support achieve that alignment. Second, the modification suggested by the Examiner would completely destroy the concept of Braun since he is instructing one skilled in the art to place the electronics **inside** the multi-layer structure, not **outside** of it. A combination of references suggested by the Examiner cannot result in the destruction of the primary reference. Finally, Braun is directed to attaching the electronics to a piece of clothing and is not directed to connecting the device to the ear. Arguably, one might consider replacing the curved mounting slot of Braun with the clip of Moore allowing the Braun device to be hung from an article of clothing. However, such a modification will still fail to produce Applicants' invention since the electronics will still be inside the Braun's support.

In view of the above, it is respectfully submitted that claim 1 is not rendered obvious by any combination of Braund and Moore.

In the Office Action, the Examiner relied on the teachings of Lee (6,038,329) to show the use of a U-shaped clip for holding a transducer to an ear. However, Lee fails to show a clip for connecting a transducer to a support member as defined in independent claim 1 and therefore fails to overcome the deficiencies of Braund and Moore in rendering obvious Applicants' invention.

In the Office Action, the Examiner relied on the patent to Clegg (6,490,362) for its teaching of a microphone transducer. However, Clegg does not appear to add much to Braund which also teaches the use of a microphone transducer on a boom. Accordingly, Clegg cannot overcome the deficiencies of Braund and Moore in rendering claim 1 obvious.

Based on the above, it is respectfully submitted that independent claim 1 defines patentable subject matter and allowance thereof, along with the claims depending therefrom, is respectfully solicited.

Respectfully submitted,

STALLMAN & POLLOCK LLP

Dated: April 13, 2006

By: 

Michael A. Stallman (Reg. No. 29,444)

Attorneys for Applicant(s)